

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF DELAWARE

JILL A. STEINLE and EARNEST E. STEINLE
Plaintiff,
v.
LANKFORD-SYSCO FOOD SERVICES, LLC, a Maryland Corporation, and
KEN F. REYNOLDS,
Defendants.

**ANSWER OF DEFENDANTS TO PLAINTIFFS' AMENDED COMPLAINT WITH
AFFIRMATIVE DEFENSES**

COUNT I

1. Defendants, Lankford-Sysco Food Services, LLC and Ken F. Reynolds, hereinafter "Answering Defendants", are without knowledge or information sufficient to form a belief as to the truth of the averments contained in this paragraph.

2. Admitted.

3. Admitted.

4. Answering Defendants are without knowledge or information sufficient to form a belief as to the truth of the averments contained in this paragraph.

5. Answering Defendants are without knowledge or information sufficient to form a belief as to the truth of the averments contained in this paragraph.

6. Denied.

7. Denied.

8. Denied.

9. Denied.

10 (a)-(g). Denied.

11. Denied.

12. Denied.

COUNT II

13. The allegations of paragraphs 1 through 12 are realleged and incorporated herein as though fully set forth.

14. Answering Defendants are without knowledge or information sufficient to form a belief as to the truth of the averments contained in this paragraph.

15. Denied.

WHEREFORE Answering Defendants demand that judgment be entered in their favor and against plaintiffs, together with reasonable attorney's fees and costs.

FIRST AFFIRMATIVE DEFENSE

Plaintiff claims are barred by the applicable statute of limitations.

SECOND AFFIRMATIVE DEFENSE

Plaintiff's Complaint fails to state a claim upon which relief may be granted.

THIRD AFFIRMATIVE DEFENSE

Plaintiff's harm was caused by a person(s) and/or parties not under the control of Answering Defendants and, as such, Answering Defendants are not responsible for plaintiff's harm.

FOURTH AFFIRMATIVE DEFENSE

Plaintiff's harm was the result of a superceding/intervening cause.

FIFTH AFFIRMATIVE DEFENSE

Plaintiff's claims for medical expenses and/or special damages may be barred or limited by 21 Del. C. §2118.

SIXTH AFFIRMATIVE DEFENSE

Answering Defendants deny any liability whatsoever and contends that the incident and any resulting injuries were proximately caused by the negligence of Plaintiff, Jill A. Steinle, in that she:

- (a) failed to keep her body under sufficient control;
- (b) failed to take reasonable and appropriate steps for her own safety;
- (c) failed to heed available warnings; and
- (d) was otherwise negligent as further discovery may demonstrate.

SEVENTH AFFIRMATIVE DEFENSE

To the extent that the negligence of Plaintiff, Jill A. Steinle, is determined to be greater than fifty percent of the total percentage of fault, then that negligence bars recovery. In the event that the negligence of Plaintiff, Jill A. Steinle, is fifty percent or less, the recovery must be reduced by the percentage of fault attributed to Plaintiff, Jill A. Steinle.

EIGHTH AFFIRMATIVE DEFENSE

Plaintiffs' Complaint impermissibly names a fictitious defendant.

NINTH AFFIRMATIVE DEFENSE

Plaintiffs failed to name an indispensable party, namely Ken Reynolds, under Super Ct. Civ. R. 19.

TENTH AFFIRMATIVE DEFENSE

Answering defendants give notice that they intend to rely upon such other affirmative defenses as may become available or apparent during the course of discovery or other proceeding

and thus reserve the right to amend this list to assert such other defenses to which they may be entitled.

RESERVATION OF IME RIGHTS

Answering Defendants specifically reserve the right to require the plaintiff, Jill A. Steinle, to undergo an independent medical examination at a time and place convenient for the parties.

WHEREFORE Answering Defendants demand that judgment be entered in their favor and against plaintiffs, together with reasonable attorney's fees and costs.

**MARSHALL, DENNEHEY, WARNER,
COLEMAN & GOGGIN**

By: /s/ Thomas J. Gerard
THOMAS J. GERARD, ESQUIRE
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Attorney for Defendants, Lankford-Sysco
Food Services and Ken F. Reynolds

DATED: April 13, 2006

CERTIFICATION OF SERVICE

I hereby certify that I have served upon all persons listed below two true and correct copies of the ANSWER OF DEFENDANT, KEN F. REYNOLDS, TO PLAINTIFFS' COMPLAINT WITH AFFIRMATIVE DEFENSES AND CROSSCLAIM in the above-captioned matter via regular mail on this date to the following:

Clayton E. Bunting, Esquire
Wilson, Halbrook & Bayard
P.O. Box 690
Georgetown, DE 19947

**MARSHALL, DENNEHEY, WARNER,
COLEMAN & GOGGIN**

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